



County of Los Angeles CHIEF EXECUTIVE OFFICE

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February 9, 2012

To: Supervisor Zev Yaroslavsky, Chairman
Supervisor Gloria Molina
Supervisor Mark Ridley-Thomas
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

SACRAMENTO UPDATE

This memorandum contains a pursuit of position on County-sponsored legislation related to administering and conducting oversight board meetings of successor agencies to former redevelopment agencies; a pursuit of County position on redevelopment legislation regarding the expenditure of tax-allocation bond proceeds; and a report on the status of new redevelopment legislation of County interest.

Pursuit of Position on County-Sponsored Legislation

This office will pursue County-sponsored legislation to allow counties to administer and conduct oversight board meetings of successor agencies for former Redevelopment Agencies (RDAs) and to seek reimbursement for costs incurred for these activities.

ABX1 26 (Chapter 5, Statutes of 2011), eliminates RDAs and establishes successor agencies which would typically be a city, county, or the city and county which established the RDA. These successor agencies are required to make payments for enforceable obligations and to principally wind up the affairs of the former RDAs.

ABX1 26 also established an oversight board for each successor agency consisting of seven members appointed as follows: 1) one member appointed by the county board of supervisors; 2) one member appointed by the mayor of the city that formed the RDA; 3) one member appointed by the largest special district; 4) one member appointed by

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the county superintendent of education; 5) one member appointed by the Chancellor of the California Community Colleges; 6) one member of the public appointed by the county board of supervisors; and 7) one member representing employees of the former RDA appointed by the mayor or the chair of the board of supervisors. Members of oversight boards serve without compensation or reimbursement for expenses. Beginning on July 1, 2016, one oversight board would be formed in each county.

Each oversight board is required to approve various actions by the successor agency including, but not limited to: 1) the establishment of new repayment terms for outstanding loans; 2) the set-aside of refunding bonds; 3) the merger of project areas; and 4) the establishment of the obligation payment schedule. Each oversight board also is required to direct the successor agency to: 1) deposit all assets and properties in a manner aimed at maximizing value; 2) cease performance and terminate all existing agreements that do not qualify as enforceable obligations; 3) terminate any agreement between the former RDA and any public entity in the county which obligates the former RDA to provide funding for debt service or other payments if it is in the best interest of the taxing entities; and 4) determine whether any contract, payment, or agreement between the former RDA and private parties should be dissolved or renegotiated based on taxing entities best interests, among other functions. All actions taken by the oversight board are subject to review by the California Department of Finance.

In Los Angeles County, there are 71 RDAs which will require the establishment of 71 individual successor agencies and oversight boards. According to the Executive Office of the Board, the Department has the expertise to facilitate the oversight board meetings and is available to assist the boards by identifying locations for meetings, developing rosters, and providing orientation and training on the basics of conducting open meetings pursuant to the Brown Act. This office and the Executive Office of the Board indicates that providing these services would facilitate the successful and timely dissolution of former RDAs in the County. However, ABX1 26 does not allow a county to administer oversight board meetings.

The Executive Office of the Board recommends that the County pursue legislation to allow the County to administer and conduct oversight boards meetings and to seek reimbursement for this function, and this office concurs. Therefore, consistent with your Board directive of January 17, 2012 to take all actions which are necessary to successfully implement the requirements and goals of ABX1 26, **we will pursue County-sponsored legislation to allow a board of supervisors of any county, or city and county, to administer and conduct oversight board meetings, if requested by a successor agency and allow the county auditor to charge for county costs incurred for these activities to the Redevelopment Property Tax Trust Fund.**

Pursuit of County Position on Redevelopment Legislation

SB 986 (Dutton), as introduced on January 31, 2012, would make changes to ABX1 26 (Chapter 5, Statutes of 2011) to allow RDAs to continue to spend property tax revenue on projects for which they sold tax-allocation bonds. The bill contains an urgency clause making it effective immediately, if passed by a two-thirds vote of the Legislature and signed by the Governor.

As previously reported, SB 986 would: 1) exclude bond proceeds from the remittance of unencumbered balances of a former RDA to the county auditor-controller; 2) permit a successor agency to enter into an enforceable obligation with respect to bond proceeds by December 31, 2014; 3) require the oversight board to approve the establishment of an enforceable obligation with respect to bond proceeds; and 4) prohibit the oversight board from disapproving the establishment of an enforceable obligation with respect to bond proceeds, if that obligation is reasonably in furtherance of the purposes for which the bonds were sold.

ABX1 26 of 2011 clearly outlines a process to expeditiously wind down the affairs of RDAs and contains key provisions that prohibit the creation of new obligations or debts and ensures that enforceable obligations are safeguarded as RDAs are dissolved and debt is retired. These provisions are intended to preserve the revenues and assets of RDAs to make certain that enforceable obligations, as defined in ABX1 26, are paid and to allow local governments to use remaining revenues to fund core government services. Any change to define unencumbered bond proceeds as encumbered balances, as proposed in SB 986, would reduce the amount of property tax revenues remitted to county auditor-controllers for distribution to taxing entities and prevent local governments from receiving revenues, which could be used to address critical local government needs.

County Counsel indicates that should successor agencies be allowed to enter into new enforceable obligations, local taxing entities would be negatively impacted. Existing law does not allow successor agencies to enter into new enforceable obligations. Thus, bond proceeds can only be used to either pay for work required by existing enforceable obligations, or if there is no work to be performed, to annul the bonds. To the extent the proceeds are not needed to annul the bonds, they are to be turned over to county auditor-controllers to be distributed to the affected taxing entities, including the County, as property tax revenue. Furthermore, to the extent there are unencumbered bond proceeds on hand, instead of using them to either annul the bonds or turn it over to county auditor-controllers, SB 986 proposes to allow the successor agency to enter into new contractual obligations pledging those bond proceeds, which would further reduce the amount of revenues distributed to taxing entities.

It is very difficult to determine the potential amount of existing unencumbered bond proceeds that are not needed to annul RDA issued bonds at this time. Bond information is not available to the County and it is needed to determine potential impact. Most of the data and criteria to make an accurate determination would not be available to county auditor-controllers and successor agencies until months after the dissolution of RDAs when all audits have been completed. In addition, a major concern of the Chief Executive Office, County Counsel and the Auditor-Controller has been the potential for a number of RDAs that had been actively issuing debt during 2011.

The Community Development Commission (CDC), the former Redevelopment Agency for Los Angeles County, indicates that it did not issue tax allocation bonds; therefore, the majority of the provisions included in SB 986 would not have a significant impact on the CDC.

Because SB 986 would reduce the amount of property tax revenues remitted to county auditor-controllers for distribution to taxing entities and prevent local governments from receiving revenues, by defining unencumbered bond proceeds as encumbered and permitting successor agencies to enter into new contractual obligations, County Counsel, Auditor-Controller and this office recommend an oppose position on SB 986. Therefore, consistent with existing Board policy to minimize the adverse impact of State actions and oppose any redevelopment legislation which would cause the County to lose revenues, **the Sacramento advocates will oppose SB 986.**

SB 986 is currently at the Senate Desk. This measure may be heard in committee on or after March 2, 2012. There is no registered support or opposition on file.

Redevelopment Legislation of County Interest

AB 1585 (Pérez), as amended on February 2, 2012, would make changes to ABX1 26 (Chapter 5, Statutes of 2011), the redevelopment agency elimination bill, to modify the provisions relating to: 1) the distribution of Low Moderate Income Housing (LMIH) funds; 2) the expansion of the definition of the terms enforceable obligation and administrative cost allowance; 3) the responsibilities of the successor agency and oversight board; and 4) the responsibilities of the auditor-controller, among other provisions. The bill contains an urgency clause making it effective immediately, if passed by a two-thirds vote of the Legislature and signed by the Governor. The following is an overview of the key provisions in AB 1585:

Transfer of the Low and Moderate Income Housing Fund Balance

Similar to **County-supported SB 654 (Steinberg)**, AB 1585 allows a host city or county of a former RDA to retain funds on deposit in its LMIH fund and requires the city or county to expend those funds in compliance with the housing provisions of the Community Redevelopment Law. Furthermore, the bill provides that if the host city, county, or other public entity that performs housing functions has not expended or encumbered at least 80.0 percent of the moneys in the LMIH fund within three years of the date of receipt, the excess amount is to be allocated to the auditor-controller for housing purposes pursuant to existing law.

Expansion of Enforceable Obligation and Administrative Cost Allowance

AB 1585 would expand the definition of an enforceable obligation to include two additional types of loan agreements between a RDA and its host city or county: 1) a loan that was executed within two years of the date of the creation of a project area, if the loan is specific to that project area; and 2) a loan to fund the RDA's FY 2009-10 State's Supplemental Educational Revenue Augmentation Fund (SERAF) payment to schools.

The bill would also provide that other loan agreements entered into between the RDA and the host city or county to be an enforceable obligation, if an oversight board makes a finding that the loan was for legitimate redevelopment purposes, had economic substance and was based on reasonable repayment terms.

Furthermore, the bill expands the definition of an enforceable obligation to include costs incurred to fulfill collective bargaining agreements for layoffs or terminations of city employees who perform work directly on behalf of the former RDA.

In addition, AB 1585 expands the definition of administrative cost allowance to allow the oversight board to approve temporary increases in the allowance to: 1) carry out the requirements of an enforceable obligation; 2) cover litigation costs; and 3) maintain and preserve the value of assets while in the possession of the successor agency. The bill also expands the definition of administrative cost allowance to specify that employee costs associated with work on specific project implementation activities, including but not limited to, construction, project management, or construction inspection, are considered project-specific costs and are not administrative costs.

Expansion of Successor Agencies and Oversight Board Responsibilities

AB 1585 authorizes successor agencies, with oversight board approval, to enter into agreements, including the issuance of bonds, to fund required payments under an enforceable obligation that exceed the amount of property tax revenue available to the RDA during the payment period. The bill requires successor agencies, with oversight board direction, to: 1) compile a complete inventory of existing real property assets of the former RDA by project area; and 2) include real property assets that are integral to the operation of a governmental purpose asset, such as a parking facility, in the transfer ownership of assets that were constructed and used for a government purpose to the appropriate public jurisdictions.

The oversight board, prior to disposal of any nonfinancial real property asset, would be required to receive and review the inventory compiled by the successor agency and adopt a policy or strategy for the disposal or transfer of those assets, as specified.

Expansion of Auditor-Controller Responsibilities

AB 1585 requires the auditor-controller to reserve additional funds in the Redevelopment Property Tax Trust Fund during the January 16 annual allocation, if necessary, to cover payments made in the second half of the calendar year that are in excess of amounts anticipated to be deposited in the fund from the allocation that is received in May or June.

The Chief Executive Office, Auditor-Controller, County Counsel, and Community Development Commission are currently analyzing AB 1585 to determine impact to the County.

AB 1585 is currently at the Assembly Desk. This measure may be heard in committee on or after March 4, 2012. There is no registered support or opposition on file.

We will continue to keep you advised.

WTF:RA
MR:VE:LY:sb

c: All Department Heads
Legislative Strategist
Local 721
Coalition of County Unions
California Contract Cities Association
Independent Cities Association